

## NOTICE OF INTENT

Department of Environmental Quality  
Office of Environmental Assessment  
Environmental Planning Division

Commercial Laboratories Pending Accreditation  
(LAC 33:I.4501 and 4719) (OS039)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Office of the Secretary regulations, LAC 33:I.4501 and 4719 (Log #OS039).

As a result of deadlines established in current Louisiana regulations, the Department is prohibited from accepting data from commercial laboratories that have not received departmental accreditation. This rule will allow the Department to accept data from laboratories that have submitted complete applications and supporting documents, have submitted documentation verifying certification/accreditation by a department-approved accreditation program or supporting documentation showing the quality assurance and quality control program used to generate analytical data by the laboratory, and have paid all appropriate fees. The Department is adding an exemption for personnel monitoring services and those activities specifically licensed in accordance with LAC 33:XV.Chapter 3.Subchapter B, equivalent agreement state regulations, and the Nuclear Regulatory Commission regulations, Title 10 Code of Federal Regulations, due to the fact that they are licensed under other department regulations and to prevent an additional economic burden and duplication of effort by the department. The Department relies on the analytical data to determine permit compliance, enforcement issues, and effectiveness of remediation of soils and groundwater. Permit issuance and compliance are effective means of determining the impact on human health and the environment. The basis and rationale for this rule are to establish regulations to allow the department to have access to accurate, reliable, precise analytical data in order to meet its mandate to protect human health and the environment. This rule will promulgate the regulation changes in Emergency Rule OS039E3, which was effective on November 11, 2002.

This proposed rule meets an exception listed in R.S. 30:2019.D.(2) and R.S. 49:953.G.(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on January 24, 2003, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Attendees should report directly to the hearing location for DEQ visitor registration, instead of to the security desk in the DEQ Headquarters building. Should individuals with a disability need an accommodation in order to participate, contact Lynn Wilbanks at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference this proposed regulation by OS039. Such comments must be received no later than January 31, 2003, at 4:30 p.m., and should be sent to Lynn Wilbanks, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or

to FAX (225) 765-0389 or by e-mail to [lynnw@deq.state.la.us](mailto:lynnw@deq.state.la.us). Copies of this proposed regulation can be purchased by contacting the DEQ Records Management Section at (225) 765-0843. Check or money order is required in advance for each copy of OS039.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.  
Assistant Secretary

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part I. Office of the Secretary**  
**Subpart 3. Laboratory Accreditation**

**Chapter 45. Policy and Intent**

**§4501. Description and Intent of Program**

A. – D. . . .

E. This Subpart shall not apply to the following:

1. laboratory analyses programs accredited under the regulatory and statutory authority of the Louisiana Department of Health and Hospitals; and
2. personnel monitoring services in accordance with LAC 33:XV.430.C and to those activities specifically licensed in accordance with LAC 33:XV.Chapter 3.Subchapter B, equivalent agreement state regulations, and the Nuclear Regulatory Commission regulations, Title 10 Code of Federal Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:917 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1434 (July 2000), LR 29:\*\*.

**Chapter 47. Program Requirements**

**§4719. Implementation**

A. – B. . . .

C. The department will accept analytical data generated by laboratories that do not comply with the deadlines established in Subsection B of this Section for accreditation if such laboratories:

1. have submitted a complete application form and supporting documents;
2. have submitted documentation verifying certification/accreditation by a department-approved accreditation program or supporting documentation showing the quality assurance and quality control program used to generate analytical data by the laboratory; and
3. have paid appropriate fees.

€D. These regulations shall not apply to field tests as defined in LAC 33:I.4503.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:922 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1436 (July 2000), LR 29:\*\*

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES LOG #: OS039**

Person Preparing

Statement: Louis R. C. JohnsonPhone: (225) 765-2405Dept.: Department of Environmental QualityOffice: Environmental Assessment

Return

Address: P.O. Box 82231Baton Rouge, LA 70884

Rule

Title: Commercial Laboratories Pending  
Accreditation (LAC 33:I.4501 and 4719)Date Rule Takes Effect: Upon Promulgation

**SUMMARY**

(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no anticipated implementation costs or savings to state or local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule changes should have no effect on the revenue collections of state or local government.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule changes should have no effect on competition and employment.

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Signature of Agency Head or DesigneeJames H. Brent Ph.D., Asst. Secretary

Typed Name and Title of Agency Head or Designee

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LEGISLATIVE FISCAL OFFICER OR DESIGNEE

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Date of Signature

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Date of Signature

PROPOSED RULE/DECEMBER 20, 2002  
LFO 7/1/94

OS039

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

The following information is requested in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

As a result of deadlines established in current Louisiana regulations, the Department is prohibited from accepting data from commercial laboratories that have not received departmental accreditation. This rule will allow the Department to accept data from laboratories that have submitted complete applications and supporting documents, have submitted documentation verifying certification/accreditation by a department-approved accreditation program or supporting documentation showing the quality assurance and quality control program used to generate analytical data by the laboratory, and have paid all appropriate fees.

The Department is adding an exemption for personnel monitoring services and those activities specifically licensed in accordance with LAC 33:XV.Chapter 3.Subchapter B, equivalent agreement state regulations, and the Nuclear Regulatory Commission regulations, Title 10 Code of Federal Regulations, due to the fact that they are licensed under other Department regulations and to prevent an additional economic burden and duplication of effort by the Department.

- B. Summarize the circumstances which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

The Department relies on the analytical data to determine permit compliance, enforcement issues, and effectiveness of remediation of soils and groundwater. Permit issuance and compliance are effective means of determining the impact on human health and the environment. The Department must have access to accurate, reliable, precise analytical data in order to meet its mandate to protect human health and the environment.

This proposed rule will promulgate the regulations in emergency rule Log #OS039E, which will be renewed and remain effective until final promulgation of this rule.

- C. Compliance with Act II of the 1986 First Extraordinary Session

(1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

The proposed rule change will not result in any increase in the expenditure of funds.

- 2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) \_\_\_\_ Yes. If yes, attach documentation.

(b) \_\_\_\_ No. If no, provide justification as to why this rule change should be published at this time.



**FISCAL AND ECONOMIC IMPACT STATEMENT****WORKSHEET****I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED**

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

There should be no increase or decrease in costs to implement the proposed action.

COSTS	FY 02-03	FY 03-04	FY 04-05
PERSONAL SERVICES			
OPERATING EXPENSES			
PROFESSIONAL SERVICES			
OTHER CHARGES			
<u>EQUIPMENT</u>			
<u>TOTAL</u>	0	0	0
<u>MAJOR REPAIR &amp; CONSTR.</u>			
<u>POSITIONS(#)</u>			

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

There should be no increase or decrease in costs to implement this proposed rule change. The rule change is for clarification and to finalize emergency rule Log #OS039E (LAC 33:I.4501.E and 4710.C-D).

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 02-03	FY 03-04	FY 04-05
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
DEDICATED			
FEDERAL FUNDS			
<u>OTHER (Specify)</u>			
<u>TOTAL</u>	0	0	0

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

This proposed rule change will not require the agency to expend any additional funding for the implementation of these changes.



**B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.**

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

There will be no cost or savings to local governmental units resulting from the proposed rule change.

2. Indicate the sources of funding of the local governmental unit, which will be affected by these costs or savings.

This is not applicable.

**FISCAL AND ECONOMIC IMPACT STATEMENT****WORKSHEET****II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS**

- A. What increase (decrease) in revenues can be anticipated from the proposed action?

There should be no increase or decreases in revenues.

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REVENUE INCREASE/DECREASE	FY 02-03	FY 03-04	FY 04-05
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STATE GENERAL FUND  
 AGENCY SELF-GENERATED  
 RESTRICTED FUNDS\*  
 FEDERAL FUNDS  
LOCAL FUNDS

TOTAL	0	0	0
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\*Specify the particular fund being impacted.

- B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

This is not applicable.

**III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS**

- A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

There should be no effect on costs, workload adjustments, or paperwork. The proposed rule changes are for clarification and to finalize emergency rule Log #OS039E (LAC 33:I.4501.E and 4710.C-D).

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

No impact on receipts and/or income should result from this rule change.

**IV. EFFECTS ON COMPETITION AND EMPLOYMENT**

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

Competition and employment should not be impacted by this rule change.